

produced by a corresponding untransformed cell. Reconsideration and withdrawal of the Restriction Requirement, in view of the remarks below, is respectfully requested.

The Restriction Requirement is traversed on the basis that the inventions are so closely related within the context of the disclosure of the application that they cannot properly be considered independent and distinct within the statutory meaning of 35 U.S.C. § 121. In particular, the claims in Group I (claims 5 and 20-22, in part), directed to a method of altering the amount of p95 in a cell, in which an isolated nucleic acid molecule encoding p95 or a biologically active fragment thereof, is introduced into a host cell and expressed in the transformed host cell in an amount which is different than the amount of p95 produced by a corresponding untransformed cell, are clearly related to the claims in Group II (claims 6 and 20-22, in part), directed to a method in which the complement of an isolated nucleic acid molecule encoding p95 or a biologically active fragment thereof, is introduced into a host cell and expressed in the transformed host cell in an amount which decreases the amount of p95 in the cell. Evidence of the relatedness of the claims in Groups I and II is found in the Restriction Requirement dated October 4, 1999 in U.S. application Serial No. 09/067,641, the parent application of the present divisional application. In the Restriction Requirement for the '641 application, claims 5-6 and 16-18 were grouped together in a single group.

Moreover, the Restriction Requirement is traversed on the basis that Restriction Requirements are optional in all cases. M.P.E.P. § 803. If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it may arguably include claims to distinct or independent inventions. M.P.E.P. § 803. It is respectfully submitted that the search and examination of at least the claims in Group I-II would not be a serious burden to the Examiner.

Thus, the Restriction Requirement is properly traversed. Reconsideration and withdrawal is respectfully requested.

The Examiner is invited to contact Applicant's Representatives at the number given below if there are any questions regarding this Response or if prosecution of this application may be assisted thereby.

Respectfully submitted,

JOHN H.J. PETRINI ET AL.,

By their Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

P.O. Box 2938

Minneapolis, MN 55402

(612) 373-6959

Date

August 1, 2002

By



Janet E. Embretson

Reg. No. 39,665

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 1st day of August, 2002.

Name

Dawn M. Boke

Signature

Dawn M. Boke